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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,168	10/05/2000	Rajeev Shorey	JP920000260US1	8095

7590 03/29/2005
McGinn & Gibb, PLLC
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EXAMINER

RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/680,168

Applicant(s)

SHOREY ET AL.

Examiner

Daniel J. Ryman

Art Unit

2665

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ They raise the issue of new matter (see NOTE below);
 - (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-15.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


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Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues that Johansson does not disclose "breaking each link layer packet into variable size baseband packets ... and repeating the conversion process on the unconverted bytes until all the uncovered bytes have been converted." Examiner, respectfully, disagrees. Johansson teaches transmitting data over a link in packets comprising 1, 3, or 5 slots (col. 2, lines 31-42). Johansson also teaches that the size of the packets can be varied (col. 2, line 64-col. 3, line 2). Thus, Johansson teaches breaking the data into variable size packets and transmitting these packets. However, Applicant contends that Johansson does not repeat this process for all of the data to be transmitted. If Applicant's argument is assumed to be true, then Johansson would have to disclose breaking only part of the data to be transmitted into packets where the remaining data would not be sent. However, the point of transmitting data is for the entirety of the data to be transmitted. Thus it is inherent, or at the very least obvious, that Johansson teaches "breaking each link layer packet into variable size baseband packets ... and repeating the conversion process on the unconverted bytes until all the uncovered bytes have been converted."

Applicant further implies that Johansson does not disclose minimizing the number of packets created from a set of data. While Examiner agrees that Johansson does not explicitly teach this, Examiner asserts that Johansson suggests such a limitation. Johansson discloses that it is desirable to maximize the size of a transmitted packet in order to increase system throughput (col. 4, lines 23-33 and col. 3, lines 58-60). Johansson also teaches that longer packets cause more system delay (col. 8, lines 15-18). Finally, Johansson teaches adjusting the size of the packets (col. 2, line 64-col. 3, line 2). Thus, Johansson suggests minimizing the number of baseband packets by transmitting information in the largest packets possible in order to increase system throughput. However, when not enough information is present to fill the largest packet possible, Johansson suggests that the information should be transmitted in a smaller size packet in order to decrease system delay.

For the given reasons, Examiner maintains that Johansson reads on the amended claims.